

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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BILL DRAFT 2019-SVfz-13B [v.4]

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Clarify Digital Property Tax/Online Learning.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE TAXATION OF CERTAIN DIGITAL PROPERTY AS IT
3 RELATES TO ONLINE EDUCATIONAL MATERIALS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-164.3 reads as rewritten:

6 "**§ 105-164.3. Definitions.**

7 The following definitions apply in this Article:

8 ...

9 (23) Certain digital property. – An item listed in this subdivision that is delivered
10 or accessed electronically and that is not considered tangible personal
11 property. The term does not include an information ~~service~~. service or the
12 provision of education. The items are:

- 13 a. An audio work.
14 b. An audiovisual work.
15 c. A book, magazine, a newspaper, a newsletter, a report, or another
16 publication.
17 d. A photograph or a greeting card.

18 ...

19 (58) Education. – The delivery of instruction or training by any of the following:

- 20 a. An elementary or secondary school, as defined in 20 U.S.C. § 7801,
21 when offered as part of the curriculum to a student enrolled in that
22 institution.
23 b. An institution of higher education, as defined in 20 U.S.C. § 1002,
24 when the instruction or training to a person enrolled in that institution
25 is encompassed within the institution's accreditation or prepares a
26 person for gainful employment in a recognized occupation.

27"

28 **SECTION 2.** G.S. 105-164.13 reads as rewritten:

29 "**§ 105-164.13. Retail sales and use tax.**

30 The sale at retail and the use, storage, or consumption in this State of the following items are
31 specifically exempted from the tax imposed by this Article:

32 ...



(72) Sales of an audio work or an audiovisual work, whether accessed in real-time or on-demand, by any of the following educational institutions, whether located inside or outside this State:

a. An elementary or secondary school, as defined in 20 U.S.C. § 7801.

b. An institution of higher education, as defined in 20 U.S.C. §1002.

(73) Sales of an audio work or an audiovisual work that is a qualifying education expense under G.S. 115C-595(a)(3) to the operator of a home school as defined in G.S. 115C-563.

(74) Sales of a live or pre-recorded audio or audiovisual presentation that is not exempt under subdivision (72) of this section and meets all of the following requirements:

a. The presentation was offered as a live event for which there was an admission charge for in-person attendance.

b. It is delivered or accessed electronically in real-time, on-demand, or at another set time.

c. Admission to the in-person presentation is exempt from tax under G.S. 105-164.4G(e)(2).

SECTION 3. This act is effective retroactively to October 1, 2019, and applies to sales occurring on or after that date.